

April 3, 1998
L-98-8

TO: V. M. Speakman, Jr.
Labor Member

FROM: Steven A. Bartholow
Deputy General Counsel

SUBJECT: S.S.A. No. xxx-xx-xxxx - J. E. W., Jr.
Annuity Beginning Date

This is in reply to your memorandum of March 31, 1998, regarding Mr. J. E. W., Jr. Mr. W. was injured on-the-job and has entered into a settlement agreement with his rail employer. As part of the settlement, he was allocated service months into 1998 so that he would have a total of 240 service months. The final month allocated will be August 1998, and Mr. W. inquires as to whether he could be eligible for any portion of his annuity for that month, assuming that the five-month waiting period had previously been met.

Section 218.10(c) of the RRB's regulations provides in pertinent part that:

An employee disability annuity begins on the later of either the date chosen by the applicant or the earliest date permitted by law. The earliest date permitted by law is the latest of--

- (1) The day after the day the claimant last worked for a railroad employer;
- (2) The first day of the twelfth month before the month in which the application is filed;
- (3) The first day of the sixth month after the month of disability onset; or
- (4) The first day of the month of disability onset if the claimant was previously entitled to an employee disability annuity which ended within five years of the current disability onset month.

Based on subparagraph (1) above, and assuming Mr. W. otherwise qualifies, Mr. W.'s annuity could begin the day after his last date of compensated service, i.e. the day after the last day of the period to which pay for time lost is allocated. If the settlement agreement allocates compensation through a date certain, e.g. August 10, 1998, the annuity could begin the day after the specific ending date. If the allocation is for August 1998, the annuity can begin no earlier than September 1, 1998.